

DMB:MEH:slg:2000V00753

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*S***FILED
HARRISBURG**

NOV 27 2000

MARY E. D'ANDREA, CLERK
Per _____
DEPUTY CLERK *gk*M. ASH-SHARIEF AL'ASKARI,
Plaintiff

v. : Civil No. 1:CV-00-1449

(Judge Caldwell)

KATHLEEN HAWKES, et al.,
Defendants

(Magistrate Judge Smyser)

**NUNC PRO TUNC MOTION FOR LEAVE TO FILE
STATEMENT OF FACTS**

Defendants hereby request the Court, nunc pro tunc, for leave to file their Statement of Facts in support of their motion to dismiss and for summary judgment and state the following in support thereof:

1. On August 14, 2000, Plaintiff filed this Bivens complaint.

2. Plaintiff alleges that the Defendants violated his constitutional rights. Specifically, he alleges that his access to the courts was impermissibly prejudiced; and that two incident reports were improperly substantiated by the Discipline Hearing Officer.

3. On November 9, 2000, a motion to dismiss and for summary judgment was filed on behalf of defendants.

4. On November 22, 2000, defendants filed their brief and exhibits in support of their motion to dismiss and for

summary judgment. Defense counsel realized that he had inadvertently omitted the Statement of Facts at the time of filing his brief and exhibits. Counsel apologizes for the attendant inconvenience to the Court and plaintiff as a result of his error.

5. Accordingly, defendants request permission to file their Statement of Facts, filed this date, nunc pro tunc.

6. Counsel certifies that he has not obtained the concurrence of plaintiff pursuant to Local Rule 7.1 because plaintiff is a prisoner proceeding pro se.

Wherefore, defendants request this Court to grant them leave to file their Statement of Facts nunc pro tunc.

Respectfully submitted,

DAVID M. BARASCH
United States Attorney

Matthew E. Haggerty/DO

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Dated: November 27, 2000

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

M. ASH-SHARIEF AL'ASKARI, :
Plaintiff :
v. : Civil No. 1:CV-00-1449
: (Judge Caldwell)
KATHLEEN HAWKES, et al., : (Magistrate Judge Smyser)
Defendants :
:

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on November 27, 2000, she served a copy of the attached

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STATEMENT OF FACTS**

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

M. Ash-Sharief Al'Askari
Reg. No. 34819-066
FCI Allenwood
P.O. Box 2000
White Deer, PA 17887

Shelley L. Grant
SHELLEY L. GRANT
Paralegal Specialist